

A.D. 2.6, Employee Discipline

Prepared for signature 1/29/02 - effective 2/8/02

1. Policy. The Department of Correction shall exercise consistent and equitable discipline in accordance with progressive disciplinary practices.
2. Authority and Reference.
 - A. Connecticut General Statutes, Sections 5-201, 5-202, 5-240, 5-266(a) and 18-81.
 - B. Regulations of Connecticut State Agencies, Sections 5-201-1 through 5-201-3, 5-240-1 through 5-240-3, 5-240-5a and 5-266(a)-1.
 - C. Collective Bargaining Contracts:
 1. Administrative and Residual (P-5) Bargaining Unit, Article 14, June 1999.
 2. American Federation of State, County and Municipal Workers (NP-3) Bargaining Unit, Article 16, July 1999.
 3. American Federation of State, County and Municipal Workers (NP-4) Bargaining Unit, Article 13, July 1997.
 4. Connecticut Employees Union Independent (NP-2) Bargaining Unit, Article 17, July 1999.
 5. Connecticut State Employees Association (P-3B) Bargaining Unit, Article 15, July 1997.
 6. Connecticut State Employees Association (P-4) Bargaining Unit, Article 15, July 1994.
 7. New England Health Care Employees Union, District 1199 (NP-6) Bargaining Unit, Article 33, July 2001.
 8. New England Health Care Employees Union, District 1199 (P-1) Bargaining Unit, Article 33, July 2001.
 - D. American Correctional Association, Standards for the Administration of Correctional Agencies, Second Edition, April 1993, 2-CO-1C-01 and 2-CO-1C-04.
 - E. American Correctional Association, Standards for Adult Probation and Parole Field Services, Second Edition, March 1981, Standard 2-3032.
 - F. American Correctional Association, Standards for Adult Correctional Institutions, Third Edition, January 1990, Standard 3-4048.
 - G. American Correctional Association, Adult Local Detention Facilities, Third Edition, March 1991, 3-ALDF-1C-09, 3-ALDF-1C-15 and 3-ALDF-1F-01.
 - H. Administrative Directives 1.10, Investigations; 2.1, Equal Employment Opportunity and Affirmative Action and 2.17, Employee Conduct.
3. Definitions. For the purposes stated herein, the following definitions apply:
 - A. Appointing Authority. The Commissioner of Correction or designee.
 - B. Appointment. An appointment to a position in the classified or unclassified service.
 - C. Burden of Proof. The responsibility placed upon one of the parties to prove the correctness or truth of the allegations made.

- D. Confidential Employee. A public employee who would have access to confidential information used in collective bargaining or assists the Commissioner and Deputy Commissioners in the normal course of duty.
 - E. Contract Employee. An individual working under the terms of a personal services agreement or for an employee who has a contract to provide services.
 - F. Employee. An individual holding a position in the classified or unclassified service of the state, whether full time or part time, for which compensation is paid, who has been appointed to that position following successful completion of a working test period.
 - G. Grievance Procedure. The steps prescribed in the various collective bargaining agreements and State Personnel Act and Regulations for the handling of a grievance. The intent of the process is to settle a complaint, customarily an allegation that the contract has been misinterpreted or misapplied.
 - H. Initial Investigation. An inquiry into an alleged incident in which the findings may be sufficient to take disciplinary action or result in a more formal investigation.
 - I. Just Cause. Rationale sufficient to substantiate disciplinary action upon an employee.
 - J. Past Practice. A mutually recognized and consistent employer response to a given set of workplace circumstances over an extended period of time.
 - K. Unclassified Service. An office or position in the state service which is not in the classified service.
 - L. Unfair Labor Practice. Conduct on the part of either union or management that violates provisions of national or state labor relations acts.
 - M. Working Test. A trial working period of probation to determine whether or not such employee merits permanent appointment.
4. Supervisor Responsibilities. Each supervisor shall be responsible for maintaining proper discipline within the supervisor's work unit. Discipline shall be used only to correct problems, maintain the unit's order and/or deter negative behavior.
- Disciplinary problems shall be dealt with promptly when they arise. Discipline shall be administered on the basis of substantiated facts. Any disciplinary action taken shall be related to the offense. The Unit Administrator shall ensure that a written record of the incident is maintained. Prior to the imposition of discipline, an investigation and pre-disciplinary conference for a permanent employee shall be conducted. Disciplinary action shall be taken consistent with this Directive and any applicable collective bargaining agreement, Federal or State regulation, policy or procedure.
5. Pre-Disciplinary Resolution. Informal discussions and formal counseling shall be used whenever practicable. Additional training may be considered if it appears the employee could benefit and performance is likely to improve. However, formal disciplinary action shall be taken when, it is determined further training and counseling would not be effective or the incident is of such magnitude that formal discipline is required.
6. Penalties. In accordance with the principles of progressive discipline,

the penalties shall include:

- A. Oral or Written Reprimand. An oral or written reprimand shall normally be used when a first offense warrants some form of disciplinary action. The purpose of reprimand shall be to correct the specific act or omission that is the subject of the reprimand and to place the employee on notice that continued misconduct may result in more severe discipline. An oral reprimand shall be documented in the employee's personnel file.
 - B. Suspension. Suspension shall be imposed for a specific and serious breach of written rules for reasons which may include, but are not restricted to, misconduct, insubordination, or neglect of duty. A suspension may be warranted for a first offense which is a serious breach of rules or following the issuance of an oral or written reprimand.
 - C. Demotion. A demotion should be considered when an employee, based on inefficiency, incompetence or misconduct, cannot carry out the duties and responsibilities of the assigned position yet may demonstrate satisfactory performance in a less demanding assignment. An unsatisfactory service rating may result in a demotion. A demotion shall not be made earlier than three (3) months after a permanent appointment.
 - D. Dismissal. Dismissal is the most severe penalty in the employee disciplinary process and shall be reserved for situations when an employee has repeatedly demonstrated an inability to follow agency and/or unit directives, procedures or orders or when other forms of disciplinary action have been exhausted or for first offenses which threaten the security or integrity of the unit or conduct of such a serious nature that dismissal is warranted, including, but not limited to those offenses outlined in Section 10 of this Directive.
7. Disciplinary Factors. A Unit Administrator, in determining what disciplinary action to take, should consider the following:
- A. The employee's past work record including disciplinary history and years of service.
 - B. The effect of the offense on the organization's efficient operation.
 - C. The seriousness or type of the offense relative to the employee's duties and responsibilities within the organization including the possible impact on other employees.
 - D. Any mitigating or aggravating circumstances surrounding the offense.
 - E. The uniformity of enforcement.
 - F. The timeliness of the disciplinary action.
 - G. The propriety of the work rules the employee violated.
8. Offenses Resulting in Reprimand. The following offenses shall normally result in a reprimand for the first offense:
- A. Failure to follow a direction or instruction.
 - B. Failure to observe internal security procedures with no escape resulting.
 - C. Reading unauthorized material on a post.
 - D. Failure to follow written Department or Unit Directives or post

- orders, with no consequence resulting.
 - E. Failure to report an incident.
 - F. Verbal altercation with another employee.
9. Offenses Resulting in Suspension and/or Disciplinary Demotion. The following offenses shall normally result in a suspension and/or disciplinary demotion for the first offense or repeated lesser offenses:
- A. Failure to follow an order.
 - B. Failure to follow written Department or Unit Directives resulting in severe consequences.
 - C. Inattentiveness to duty.
 - D. Excessive use of force with mitigating circumstances.
 - E. Leaving post without proper relief.
 - F. Fraudulent use of sick time.
 - G. Loss of security equipment.
 - H. Failure to observe security procedures permitting a potential escape.
10. Offenses Resulting in Dismissal. The following offenses or repeated lesser offenses shall normally result in dismissal:
- A. Failure to follow a direct order.
 - B. Sleeping on duty.
 - C. Excessive use of force with no mitigating circumstances.
 - D. Conviction of a felony.
 - E. Conviction of a misdemeanor committed while on duty.
 - F. Conviction of a misdemeanor committed off duty which could impact upon the performance of job responsibilities.
 - G. Offensive or abusive conduct toward the public, co-workers, or inmates.
 - H. Negligence resulting in an escape.
 - I. Fraud or collusion in connection with any examination or appointment in the classified service.
 - J. Theft, willful neglect or misuse of any state funds, property, equipment, material or supplies.
 - K. Deliberate violation of any federal or state statute or regulation or agency rule depending upon severity of offense or place of occurrence.
 - L. Absence without leave for five (5) or more working days or failure to return to duty within five (5) working days following authorized leave.
 - M. Possession of, use of and/or intoxication from alcohol or illegal drugs while on duty.
 - N. Neglect of duty, or other employment related misconduct.
 - O. Insubordination, including but not limited to failure to work overtime if directed to do so.
 - P. Engaging in any activity which is detrimental to the best interests of the agency or of the state.
 - Q. Violation of the code of ethics and conflict of interest law and policy.
 - R. Inappropriate relationship with an inmate who is under the jurisdiction of the Department, Board of Parole or Probation as defined in Administrative Directive 2.17, Employee Conduct.
 - S. Lying or providing false information regarding an incident.
 - T. Falsification of documents.
 - U. Failure to complete required security tours.

V. Two (2) consecutive unsatisfactory service ratings.

11. Off Duty Employee Misconduct. An employee may be disciplined up to and including dismissal for off duty misconduct if the conduct affects the Department's relationship with the employee. Discipline may occur when the conduct affects the employee's ability to perform the job; other employees refuse to work with the employee or the Department is harmed, either directly or indirectly, as a result of the employee's conduct. The Department shall conduct its own investigation in such circumstances. The outcome of the Department's investigation shall not be dependent upon the finding of any criminal court concerning the employee's guilt.
12. Standards for Disciplinary Proceedings. Disciplinary action shall be taken in accordance with the applicable collective bargaining agreement. However, all disciplinary action shall be undertaken in accordance with the following principles:
 - A. Reasonable Work Rules. The Department's directives and procedures shall be reasonably related to the orderly, efficient and safe operation of the Department's business.
 - B. Fair Application of Rules. The Department shall apply its directives, procedures and orders fairly and without discrimination to all employees.
 - C. Fair Notice. The Department shall provide the employee with information concerning probable or possible disciplinary consequences for the employee's conduct.
 - D. Investigation. The Department, before disciplining an employee, shall conduct an appropriate investigation in accordance with Administrative Directive 1.10, Investigations, to determine whether the employee committed an offense as defined in Sections 8 through 11 of this Directive.
 - E. Sufficient Evidence. The decision to initiate the disciplinary action shall be based upon substantial proof of employee act(s) or omission(s) in accordance with Administrative Directive 1.10, Investigations.
 - F. Just Penalty. The degree of discipline imposed shall be related to the seriousness of the employee's offense and its impact upon the orderly, efficient and safe operation of the unit.
13. Just Cause Review. A review shall be conducted to determine if just cause exists for disciplinary action. This determination shall be based on the following just cause standard:
 - A. Did the employer give the employee forewarning or foreknowledge of the possible or probable disciplinary consequences of the employee's conduct?
 - B. Was the employer's rule or managerial order reasonably related to the orderly, efficient, and safe operation of the Department?
 - C. Did the employer, before disciplining an employee, investigate to determine whether the employee did in fact violate or disobey a rule or order of management?
 - D. Was the employer's investigation conducted fairly and impartially?
 - E. During the investigation, did the employer obtain substantial evidence that the employee was guilty as charged?
 - F. Has the employer applied its rules, orders, and penalties

evenhandedly and without discrimination to all employees?

- G. Was the degree of discipline administered by the employer in a particular case reasonably related to: (1) the seriousness of the employee's proven offense; (2) the record of the employee in his or her service with the Department; and (3) the general discipline standards applied by the employer?

14. Pre-Disciplinary Conference. Upon completion of the investigation, a pre-disciplinary conference shall be held for any permanent employee whose employment is subject to the "just cause" standard. The conference shall be conducted by a Unit Administrator or designee who has a significant role in the decision making process.

- A. Scope. At the conference, the employee shall be provided: (1) an oral or written notice of charges; (2) an explanation of the evidence obtained during the investigation; and (3) an opportunity to present the employee's case concerning the disciplinary charges.
- B. Notice. If written notice is given, it may be mailed, return receipt requested, or hand delivered to the employee at work. If the notice is mailed, the time of the conference when the employee shall be given an opportunity to respond to the charges shall be no sooner than five (5) business days following the mailing of the notice unless mutually agreed upon by the parties. If the notice is hand delivered to the employee at work or given orally, the time of the conference when the employee shall be given an opportunity to respond to the charges may be any time following receipt of the notice, including immediately following the receipt of the notice unless the complexity of the charges requires additional time. In such case the employee may request and be granted a reasonable amount of time before being required to respond, normally within 48 hours of the notice. If an employee declines or fails to attend the pre-disciplinary conference, the appointing authority may proceed with disciplinary action consistent with the notice provided under this Directive.
- C. Representation. An employee who receives a pre-disciplinary conference may choose to have representation. Under certain collective bargaining agreements, the employee must be notified of the employee's right to have representation. However, representation shall be limited to those situations when the employee reasonably believes the conference shall result in disciplinary action. The employee may choose the union representative but cannot insist upon a specific representative who may not be available through no fault of the employer. The employee shall be permitted time before the conference to consult with the employee's representative. If a bargaining unit employee wishes to utilize a representative outside of the union, the employee shall obtain a waiver of union representation from the union.
- D. Employee Representative Functions. The representative may reasonably assist the employee during the conference. However, a representative cannot attempt to transform the conference into an adversarial proceeding through unduly provocative questions or by the tone or manner of the representative's conduct. The employer has no duty to bargain with a representative.

15. Leave of Absence Pending Investigation and/or Pre-Disciplinary Conference. The appointing authority may place an employee on leave of absence with pay for up to 15 working days to permit an investigation and/or pre-disciplinary conference of alleged serious non-criminal misconduct which could constitute just cause for dismissal. Such leave shall only be utilized if the employee's presence at work could be harmful to the public; the welfare, health or safety of inmates; the employee or other state employees or state property. Following a decision to place the employee on such leave, the appointing authority shall provide written notice to the employee stating the reasons for the leave, the effective date of the leave and the duration of the leave which shall not exceed 15 days.

Any employee who is the subject of criminal charges which upon conviction would constitute just cause for dismissal may request a voluntary leave of absence without pay pending the disposition of the criminal charges. In the event the criminal charges are not disposed of during a one (1) year voluntary unpaid leave of absence, the employee may request an extension of that leave. The appropriate Division Head, in consultation with the Director of Human Resources may, pending disposition of criminal charges, the pendency of which would hamper the completion of an independent administrative investigation and which upon conviction of an employee would constitute just cause for dismissal, place the employee on leave of absence with or without pay for up to 30 days, depending on the collective bargaining agreement. Such leave shall only be used if the employee's presence at work could be harmful to the public, the welfare, health or safety of inmates, other state employees or state property. Following a decision to place the employee on such leave, the appointing authority shall provide written notice to the employee stating the reasons for the leave, the effective date of the leave and the duration of the leave, which shall not exceed 30 days. The leave may be extended for an additional 30 day period upon request of the appropriate Deputy Commissioner and the approval of the Commissioner based only on a showing that there are significant problems which prevent the completion of an independent administrative investigation of the underlying conduct. Any leave may be terminated by the Unit Administrator with a return to work order.

16. Decision. The Commissioner, upon the recommendation of the appropriate Deputy Commissioner, shall have responsibility for approving all dismissals, demotions or suspensions, with the exception of disciplinary action below the level of dismissal for employee dependability issues, which shall be approved and administered by the Unit Administrator. The Unit Head, with the review and concurrence of the Director of Human Resources, shall have responsibility to recommend all formal disciplinary actions. The Commissioner shall make final determination. All possible employee pre-disciplinary conferences and resulting action(s) shall normally be completed within 30 working days from receipt of the original, or amended, investigation report.
17. Appeals. Once a final decision has been reached to reprimand, suspend, involuntarily demote, or dismiss an employee, the appointing authority shall provide written notice to the employee. The notice shall state the appointing authority's decision, the reasons for the decision, the effective date of the decision, and shall inform the employee of any right to further review or appeal.

Collective bargaining agreements give employees the right to file a grievance when they are disciplined. Any employee who is not included in any collective bargaining unit of state employees and who has achieved a permanent appointment may appeal to the employees' review board if said employee receives an unsatisfactory performance evaluation or is demoted, suspended or dismissed, or is aggrieved as a result of alleged discrimination, or unsafe or unhealthy working conditions or violations involving the interpretation and application of a specific state personnel statute or regulation.

Appointed officials may not avail themselves of the grievance procedures referenced herein.

Employees may file an affirmative action grievance or complaint based on alleged discrimination through the grievance procedure outlined in the Affirmative Action Policy statement in accordance with Administrative Directive 2.1, Equal Employment Opportunity and Affirmative Action.

18. Effective Dates of Discipline. Disciplinary action, except immediate dismissal, shall be effective as follows:
 - A. Dismissal. The effective date of a dismissal shall not be earlier than two (2) weeks from the date of the notice required above, except in cases of serious misconduct by an employee affecting the public, or affecting the welfare, health or safety of inmates or facilities, or of state employees, or the protection of state property, in which case the appointing authority may make the dismissal effective immediately upon the close of the pre-disciplinary conference. Less than two (2) weeks notice may also may be given to bargaining unit employees if such notice is permitted by the collective bargaining unit. The appointing authority shall state the specific reason for imposing immediate dismissal at the close of the pre-disciplinary conference and in the subsequent written notice of discipline.
 - B. Demotion. The effective date of a demotion shall not be earlier than two (2) weeks from the date of the notice.
 - C. Suspension. The effective date of a suspension shall be at a time determined by the appointing authority, commencing after oral or written notice of the determination to impose a suspension, so long as any oral notice is followed by the written notice required by this Directive.
19. Termination During Working Test Period. An employee terminated during an initial working test period may not appeal the dismissal through the grievance procedure, but may file a request in writing to the Director of Human Resources to seek reinstatement. A review shall be scheduled within 30 days of receipt by a three (3) member panel appointed by the Deputy Commissioner of Programs and Staff Development. The panel shall consist of a staff member from the Human Resources Unit at or above the level of Personnel Officer I, an Affirmative Action Unit representative and one (1) other supervisor. The panel shall submit its recommendation to the Director of Human Resources for final approval. The employee shall receive notification of the Department's decision within 14 days of receipt of the recommendation by the Director of Human Resources.

20. Exceptions. Any exception to the procedures in this Administrative Directive shall require prior written approval from the Commissioner.